

1 **T I F F A N Y & B O S C O**
2 P.A.

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13 09-28383

14 **IN THE UNITED STATES BANKRUPTCY COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 IN RE:

17 Deirdra M. Manseau and Albert Camarillo

18 Debtors.

19 Wells Fargo Bank, N.A.

20 Movant,

21 vs.

22 Deirdra M. Manseau and Albert Camarillo,
23 Debtors; Jill H. Ford, Trustee.

24 Respondents.

25 No. 2:09-bk-24472-SSC

26 Chapter 7

27 **MOVANT'S MOTION TO LIFT**
28 **THE AUTOMATIC BANKRUPTCY STAY**

29 RE: Real Property Located at
30 28626 North 68th Drive
31 Peoria, AZ 85383

32 Movant hereby requests an order granting relief from the automatic stay of 11 U.S.C. 362(a), to
33 permit Movant to foreclose the lien of its Deed of Trust on real property owned by Debtors by trustee's
34 sale, judicial foreclosure proceedings or the exercise of the power of sale, and to obtain possession and
35 control of the real property.

This motion is supported by the attached Memorandum of Points and Authorities, which is incorporated herein by this reference.

DATED this 16th day of November, 2009.

Respectfully submitted,

TIFFANY & BOSCO, P.A.

BY /s/ MSB # 010167
Mark S. Bosco
Leonard J. McDonald
Attorney for Movant

MEMORANDUM OF POINTS AND AUTHORITIES

Deirdra M. Manseau and Albert Camarillo filed a voluntary petition for protection under Chapter 7 of the Bankruptcy Code. Jill H. Ford was appointed trustee of the bankruptcy estate. Debtors have an interest in that certain real property located in Maricopa County, AZ, more particularly described as:

Lot 105, SONORAN MOUNTAIN RANCH PARCEL 10 according to the Plat of record in the office of the Maricopa County Recorder recorded in Book 691 of Maps, page 1.

EXCEPT all minerals and all uranium, thorium, or any other material which is or may be determined to be peculiarly essential to the production of fissionable materials, whether or not of commercial value, as reserved in Patent from United States of America.

Debtors executed a Note secured by a Deed of Trust, dated October 24, 2007, recorded in the office of the Maricopa County Recorder's Office. True copies of the Note and Deed of Trust are annexed as Exhibits "A" and "B", respectively, and made a part hereof by this reference.

Debtors are in default on the obligations to Movant for which the property is security, and payments are due under the Promissory Note from and after November 1, 2008.

Movant is informed and believes and therefore alleges that the Movant and the bankruptcy estate are not adequately protected based upon the Debtors failure to make payments on a timely basis.

Movant is informed and believes and therefore alleges that the Debtors and bankruptcy estate have no equity in the property. The fair market value of the property pursuant to Debtors' Schedule "A" is

1 Movant is informed and believes and therefore alleges that the Debtors and the bankruptcy estate
2 have no equity in the property. Pursuant to Debtors' Statement of Intentions the debtors intend on
3 surrendering the title and possession interest in the subject property. A true and correct copy of the
4 Debtors' Statement of Intention is attached hereto as Exhibit "C".

5 Debtors are currently in default and contractually due for November 1, 2008. Further, Movant
6 seeks relief for the purpose of foreclosing its Deed of Trust against the Debtor's interest in the real
7 property located at 28626 North 68th Drive Peoria, AZ. The Movant further seeks relief in order to
8 contact the Debtor by telephone or written correspondence regarding a potential Forbearance
9 Agreement, Loan Modification, Refinance Agreement, or other Loan Workout/Loss Mitigation
10 Agreement, and may enter into such agreement with Debtors.

11 CONCLUSION

12 Movant requests that the court enter an order vacating the automatic stay of 11 U.S.C. Section
13 362(a) as to the debtors, the bankruptcy estate, the property, and Movant; to allow Movant to foreclose the
14 lien of its Deed of Trust or Mortgage; to evict Debtors and/or successors of Debtors; and to obtain
15 ownership, possession and control of the Property.

16 DATED this 16th day of November, 2009.

17 TIFFANY & BOSCO, P.A.

18
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